IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appeal No.:	**2006-1861**	
Application No.:	**09/428,035**	Art Unit 2144
Confirmation No.:	**4121**	
Appellants:	**McGrady, et al.**	
Filed:	**October 27, 1999**	Patent Examiner Milan S. Kapadia
Title:	**Method of Dispensing and Tracking the Giving of Medical Items to Patients**	

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REQUEST FOR REHEARING PURSUANT TO 37 C.F.R. § 41.52

Sir:

Appellants hereby submit a Request for Rehearing pursuant to 37 C.F.R. § 41.52 concerning the above-referenced Application. The Request for Rehearing seeks further review of the Decision (dated October 25, 2006) of the Board of Patent Appeals and Interferences (hereinafter "Board") in Appeal No. 2006-1861. Reconsideration of the Decision is respectfully requested.

Brief Review Of The Decision

The Decision involved claims 1-28. The rejections of claims 1-20 and 22-28 were sustained. The rejection of claim 21 was not sustained.

Following is a "Statement of Points Believed to Have Been Misapprehended or Overlooked by the Board" (hereinafter "Statement") with regard to the Decision. Each specific point in the Statement is then later discussed in further detail.

Statement of Points Believed to Have Been Misapprehended or Overlooked by the Board

Point (i)

The legal standard for review was overlooked by the Board. The Decision does not follow the legal standard for review of rejections made pursuant to 35 USC § 102 or 35 USC § 103. Thus, the Decision is erroneously based.

Point (ii)

The burden of proof was misapprehended by the Board. Thus, the Decision is erroneously based.

Point (iii)

The Gombrich reference was misapprehended by the Board with respect to claim 4 (and claim 1). The Board improperly attributed features to Gombrich that Gombrich does not teach. Thus, the Decision is erroneously based.

Point (iv)

The Gombrich reference was misapprehended by the Board with respect to claim 19. The Board improperly attributed features to Gombrich that Gombrich does not teach. Thus, the Decision is erroneously based.

Point (v)

The Gombrich reference was misapprehended by the Board with respect to claim 20. The Board improperly attributed features to Gombrich that Gombrich does not teach. Thus, the Decision is erroneously based.

Point (vi)

The Gombrich reference was misapprehended by the Board with respect to claims 23. The Board improperly attributed features to Gombrich that Gombrich does not teach. Thus, the Decision is erroneously based.

Point (vii)

Appellants' claim 26 was misinterpreted by the Board and/or the Gombrich reference was misapprehended by the Board with respect to claim 26. Thus, the Decision is erroneously based.

Point (viii)

There is no legal basis for the ruling of anticipation in the Decision. Thus, the Decision is erroneously based.

Point (ix)

There is no legal basis for the ruling of obviousness in the Decision. Thus, the Decision is erroneously based.

Further Discussion of Points (i)-(ix)

(i) The legal standard for review was overlooked by the Board. As discussed in more detail hereinafter, the Decision does not apply the legal standard for review:

35 USC § 102

A proper rejection pursuant to section 35 USC § 102 requires that the four corners of a single prior art document describe all features and relationships of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983). *Atlas Powder Co. v. Ireco Inc.*, 190 F3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir 1999). *In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). *In re Robertson*, 169 F.3d 743, 49 USPQ2d 1949 (Fed. Cir. 1999).

35 USC § 103

Obviousness requires a prior art showing of all recited features and relationships, plus some teaching, suggestion, or motivation to combine the features. *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001). *In re Lee*, 277 F.3d

1338, 61 USPQ2d 1430 (Fed. Cir. 2002). *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1568, 1 USPQ2d 1593 (Fed. Cir. 1987). *In re Newell*, 891 F.2d 899, 901, 902, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989). *Dickinson v. Zurko*, 527, U.S. 150, 50 USPQ2d 1930 (1999).

(ii) The burden of proof was misapprehended by the Board. It is the duty of the Board to "review adverse decisions of *examiners* upon applications for patents" (35 USC § 6(b)). However, the record reflects that the Board based their Decision on whether the *Appellants'* arguments proved error in the Examiner's rejections. That is, the Board improperly based the Decision on a review of the Appellants' arguments rather than on a review of the Examiner's decisions with regard to the issues of patentability. For example, the Board states "Appellants' arguments have not persuaded us of error in the examiner's rejection", as reflected at Decision page 4, line 1; page 5, line 1; and page 11, at lines 9-10 and 22-23.

There is no legal basis for shifting the burden of proof from the Examiner onto Appellants. The burden of establishing anticipation (or obviousness) resides with the Office. *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The question of whether a prior art reference provides a teaching is a question of fact. The Office never established any evidence or reasoning that shows explicit or inherent anticipation by Gombrich. Thus, the burden of establishing anticipation was not met by the Office.

The initial burden is on the Office to establish that Gombrich teaches the method recited. The initial burden is not on Appellants to establish that Gombrich doesn't teach the method recited. The Office has not met its burden.

Appellants do not have a legal burden to show that all recited features are not present in a reference, which reference is the basis for a 35 USC § 102 rejection, especially when the Office has not met its required burden of establishing anticipation. Appellants are not required to prove patentability. Conversely, the initial burden of establishing anticipation resides with the Office, and this burden has clearly not been met.

The Board has overlooked that the Office must establish anticipation under the law. It is the Office that has the burden of clearly showing that all recited features are explicitly or inherently taught in Gombrich. Likewise, if the Office does not produce a *prima facie* case of obviousness (which is the current situation), then the Appellants are under no obligation to submit evidence of nonobviousness (MPEP § 2142). When the Office has not met these burdens, the Office is legally required to issue a patent. Appellants also have a right to know and rebut the evidence (which has not yet been presented by the Office) on which their grant of patent is being denied.

The Board has misapprehended the proper legal test by requiring Appellants to prove non-anticipation when the Office has not met its evidentiary burden of establishing anticipation. The law is clear that determinations of patentability must be based on concrete evidence of record set forth by the Office. *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002). The Board has overlooked the Office's failure to present concrete evidence of anticipation. The Board has also overlooked that the Office's failure to point out the teachings of all the recited claim features in Gombrich, constitutes Agency Action under the Administrative Procedures Act admitting that Gombrich does not meet the recited claim features. Appellants respectfully submit

that because the burden of proof was misapprehended by the Board, the Decision is erroneously based.

(iii) Gombrich was misapprehended by the Board with respect to claim 4 (and claim 1).

Appellants respectfully submit that the Board never established (in accordance with the standard of review for a 35 USC § 102 rejection) that Gombrich *explicitly* or *inherently* teaches the features relied on by the Board in order to sustain the rejections. Appellants respectfully submit that because anticipation was never established, the Decision is erroneously based.

Fact: The Decision (at page 5, lines 9-15) states:

> "We note that claim 4 further recites that the report 'includes machine readable indicia corresponding to at least one of the patients' and machine readable indicia corresponding to at least one item prescribed for the patient. We consider that the labels of Gombrich teach this limitation. Note: Gombrich teaches that for unique drugs a label with patient barcode, drug barcode and data relating to the administration of the drug will be printed and placed on the drug package. See column 13, line 65 through column 14, line 21."

However, nowhere does the relied upon section of Gombrich teach the features attributed thereto by the Board. Thus, the Decision is erroneously based.

Fact: Gombrich at the relied upon col. 13, line 65 through col. 14, line 21 states:

> "If approved, the pharmacist will then fill the prescription by scanning the drug's identification bar code. He will then scan a bar code in his identification badge indicating his approval. If a bar code identifying the drug is not already on the drug package, the pharmacist will take a pre-coded label and affix it to the drug.

This might occur in the case of unit dosages not bar coded by the manufacturer, in which case a sheet of bar codes might be provided which are perforated to the same package size specifications as the package of unit dosages. In the case of unique drugs, such as IV solutions where a pharmacist may combine two or more drugs to form a custom patient IV, a custom bar code might be generated in the pharmacy on its bar code printer 46c and the resulting bar code label affixed to the IV solution. Preferably, the bar code label will list all standard IV information and will also list the names of the ingredient drugs and other pertinent data such as patient's name and rate of delivery (drip rate). If not previously entered, the pharmacist might also manually enter any drug administration guidelines noted by the physician, such as time of day if the drug has no standard times or if the prescription varies from the standard times normally given, although this might be done by the nurse at the nurses' station."

To better understand the language in the above relied upon section, it is noted that Gombrich additionally teaches:

"Custom made items such as special medications, tests, IV's, etc. made for a specific patient will preferably have a label with a custom made item identification bar code attached at the time those items are made" (col. 8, lines 35-39);

"At the time the pharmacist checks and fills the prescriptions, the pharmacist will scan the patient's identification bar code 51 on the patient's prescription using a bar code reader" (col. 13, lines 57-59); and

"Scanning the drug identifier bar code on the drug package after scanning the patient's bar code will automatically enter and record the drug prescription as being approved for that particular patient and the MAR is updated" (col. 14, lines 22-26).

Upon reviewing the evidence of record one skilled in the art would conclude that Gombrich does not teach the features attributed thereto by the Board. At best, the relied upon section (col. 13, line 65 through col. 14, line 21) of Gombrich only provides a teaching of a medical item having an attached label, where the label includes:

a bar code identifying the medical item; and

a (human readable) listing of:

all standard IV information,

names of the ingredient drugs,

and other pertinent data such as patient's name and IV drip rate.

Nowhere does the relied upon section of Gombrich provide evidence of a patient's name in the form of a bar code on a drug package, as alleged by the Board (e.g., Decision at page 5, lines 12-14, and at page 11, lines 1-4). Rather, Gombrich teaches against such an allegation (e.g., Gombrich's Figure 2). The Board misinterprets the relied upon section of Gombrich to teach that all data on a drug package label is in the form of a machine readable bar code. However, the evidence of record shows that at best Gombrich's custom drug package has a label that contains both human readable data (a printed listing) and machine readable data (a bar code). It follows that Gombrich does not *explicitly* teach the features attributed thereto (and relied upon) by the Board. The need for the Board to add to Gombrich what Gombrich does not teach in order to

sustain the Examiner's allegation of anticipation is *prima facie* evidence that anticipation has not been established.

The Board also has not proved that a custom made drug label including a patient's name in the form of a bar code is mandatory in Gombrich's disclosed invention. That is, the Board has not shown through any evidence in the record, that features attributed to Gombrich are "necessarily present" in Gombrich. It follows that Gombrich also does not provide an *inherent* teaching of anticipation.

If the Board is relying on personal knowledge that they have personally verified that every custom made drug label includes a patient's name in the form of a bar code, then to the extent that the Board is so relying on this personal knowledge to support their alleged teaching in Gombrich, Appellants request an affidavit according to the provisions of 37 CFR 1.104(d)(2). A determination of patentability must be based on evidence of record.

Additionally, one skilled in the art would recognize that placing more than one bar code on a drug package would lead to confusion and possible misapplication of the drug. The Board has not even established that such medical labeling would be legal. Further, if there were multiple bar codes on a drug container, then the medical person would not know which bar code corresponded to which data.

Appellants would also like to point out that their affected claims are directed to a "report" not a drug package label. Thus, Appellants respectfully submit that their remarks also provide sufficient support against the Board's erroneous determination that a drug package label constitutes a report.

The Affected Claims

Throughout the Decision the aforementioned relied upon section of Gombrich (col. 13, line 65 through col. 14, line 21) was used not only for affirming the 35 USC § 102 rejection of claim 4 (and claims dependent thereon) but also the rejections of many other claims, such as claim 1.

Claim 1 (which was rejected under 35 USC § 103) recites generating a report that includes *both* machine readable indicia corresponding to a patient *and* machine readable indicia corresponding to an item prescribed for the patient. Note the Decision at page 11, lines 1-5, for evidence of the Board using the relied upon section of Gombrich as the basis for sustaining the rejection of claim 1. The Board merely considers "Moulding's teaching . . . to be cumulative of the Gombrich's teaching" (page 11, lines 4-5). Hence, Moulding cannot overcome the previously discussed deficiencies of Gombrich. As a result, the Board's misreading of Gombrich also affects the 35 USC § 103 rejection of independent claim 1 (and all claims dependent thereon).

Point (iii) Conclusion

For the reasons previously discussed, Gombrich does not *explicitly* or *inherently* teach the features attributed thereto by the Board. The Board cannot impute features to Gombrich which Gombrich does not teach, and then rely on these features in order to sustain the rejections. Thus, the Decision is erroneously based.

Appellants respectfully request that the Board rectify the error by reversing the rejection of claims 1 and 4, and all claims depending therefrom.

(iv) Fact: Claim 19 at step (e) recites:

"dispensing the at least one medical item from a medical item dispenser *responsive to* reading machine readable indicia on a report".

Fact: Appellants' Specification states:

"Alternative embodiments of the invention may operate dispensing devices, such as dispenser 346 . . . in response to indicia which corresponds to the medical items prescribed for patients printed on the reports. The reading device 348 is preferably configured to include data representative of the storage locations within the dispenser and other devices. A user wishing to dispense a medication from a dispenser, rather than scanning a storage location or an electronic lock drawer unit, may scan the indicia corresponding to the medication desired from the report. In response, the reading device causes the medical item to be dispensed from its storage location in the dispenser" (Specification page 94, lines 7-15).

"The ability to dispense and access medications based on the machine readable indicia from the reports further increases the speed at which items may be dispensed and the information recorded for eventual storage in the appropriate data store of the system" (page 94, lines 19-21).

"In response to scanning the patient indicia, the medical item indicia, or both, a user operating readers 660 may cause medical items to be dispensed . . . from medical item holding devices 344, 346 or 527 previously discussed" (page 130, lines 4-7).

Fact: The Decision at page 14 (beginning on line 11) states:

> "We note that claim 19 does not recite that a device performs the claimed method steps, and as such encompasses method steps performed by a human . . . it is known to those skilled in the art that IV's.[sic] are contained in an IV bag which dispenses the drug. Further, Gombrich teaches that prior to the nurse administering drugs, the nurse scans the label on the medication and if no discrepancies are noted, the system will prompt the nurse to administer the drug to the patient. . . . This prompt is responsive to the nurse scanning the label on the medicine. Thus, we consider that one skilled in the art would recognize that Gombrich teaches that when a custom IV is made, it has a label with machine readable code, and when the nurse is preparing to administer the IV (medical item) from the IV bag (medical item container) the nurse scans the label and in response to the scanning is prompted to administer the IV (medical item) from the IV bag (medical item container)".

In review, the Board indicates that it is the "IV bag which *dispenses* the drug". However, it is unclear how an IV bag can dispense itself in response to its label being read.

The Board also indicates that (1) the nurse scans the label on the IV; (2) then (following a system check for discrepancies) if no discrepancies are noted, the system prompts (via a green light; Gombrich at col. 15) the nurse to administer the IV; and (3) then in response to receiving the prompt the nurse administers the IV. As can be seen (based on the Board's analysis), at best the nurse can administer the IV *in response to* receiving the green light. However, the nurse does <u>not</u> administer the IV *in response to* scanning the IV label, especially in view of the fact that

there may be a discrepancy that precludes any IV administering. Gombrich' green light is a safety feature which is actually intended to prevent a nurse from administering the IV *in response to* scanning the IV label. That is, Gombrich teaches away from the features attributed thereto by the Board.

Appellants respectfully submit that because the Gombrich reference was misapprehended by the Board with respect to claim 19, the Board improperly attributed features to Gombrich that Gombrich does not teach. The Decision relies on these improperly attributed features. Thus, the Decision is erroneously based.

(v) Fact: Claim 20 at step (e) recites:

"*storing* in the data store, data representative that the at least one medical item has been taken for use by the one patient, *responsive to* the at least one medical item being *dispensed* from a medical item dispenser".

Fact: Appellants' Specification (at page 127, lines 5-12) states:

"The dispensing mechanism also assures that the requested medical item has been dispensed. This is assured by using signals generated by sensor 179 to minimize the risk that a dispense will be recorded which has not actually occurred due to a malfunction. Circuitry in the dispenser is connected to the sensor 179 and transmits signals when a container passes out of a magazine. These signals are checked to see if they are generated when a signal to dispense to the corresponding magazine is given. The dispense of any item from a location and the provision of such item to a patient is only recorded in the computer data store when the dispense is verified by the sensor associated with the magazine".

Fact: The Decision at page 14, last sentence, states:

"Further, with respect to claim 20 as discussed *supra*, Gombrich teaches that administration of the drug is automatically recorded if there is a green light (the light that prompts the nurse to administer the medical item)".

Thus, Board indicates that administration of the drug is automatically recorded *responsive to* the green light (Gombrich at col. 16, lines 3-4). The Board further indicates that after receiving the green light, then the nurse can administer the medical item. In review, the Board indicates that Gombrich teaches first recording the drug administration and then administering the drug. This may be true, but Gombrich's timing does not correspond to that recited in method claim 20. If Gombrich's records the drug administration data before administering the drug, then how can the storing of the data be after (*responsive to*) the drug was dispensed? It can't.

Appellants respectfully submit that because the Gombrich reference was misapprehended by the Board with respect to claim 20, the Board improperly attributed features to Gombrich that Gombrich does not teach. The Decision relies on these improperly attributed features. Thus, the Decision is erroneously based.

(vi) Fact: Claim 23 recites:

"data indicative that the at least one medical item *has been given* to the patient is stored in the portable terminal *responsive to reading* the machine readable indicia on the patient associated item".

Fact: Appellants' Specification at page 134, lines 13-20 states:

"Once the user has signed on to the portable terminal, the user may use the terminal reading device 674 to scan machine readable indicia indicative of a

medical item being given to the patient proximate to the time it is given to the patient at the patient's bedside. The user may also *scan the patient associated item to* confirm and *cause to be stored in the data store* 666 of the portable terminal *that the medical item* corresponding to the read indicia *was given* to the patient. In embodiments of the invention the configuration stored in the portable terminal 662 may cause such information to be stored in *response to* the scanning of indicia representative of a medical item and a patient associated item within a particular time period".

Fact: The Decision (at page 7, in the last paragraph) states:

"Nonetheless, the examiner has made specific findings on pages 4, 5 and 6 of the answer concerning the teachings of Gombrich and the limitation of claims 6, 7, 8, 11, 13, 18, 22, *23*, 24, and 25. Appellants' statements on pages 13 though 18 of the brief do not address the examiners findings".

Fact: The Answer (at page 6, last paragraph) states:

"As per claims 22, 23, and 25, Gombrich discloses: (h) an embodiment of the bar code reading device might include a programmed microprocessor and its associated memory and real time clock mounted in a hand held housing (Gombrich; col. 11, lines 4-44 and figures 10-12)".

Fact: Appellants argued in their Appeal Brief at page 17, lines 12-15: "Gombrich further does not teach . . . that data indicative that a medical item has been given to the patient is stored in a portable terminal responsive to reading the machine readable indicia on a patient associated item in the manner recited".

Appellants also discussed the operation of Gombrich on page 9 of their Appeal Brief, especially with regard to Gombrich's col. 15. Again, Gombrich teaches:

> "When ready to administer treatment, a nurse will take the portable RF bar code reading device 48 and read her own identifying bar code badge to access the system and to identify herself. Next, the nurse will read the patient identifier bar code on the patient's identification bracelet and the item identifier bar code on the items to be administered and press a 'SEND' key on the bar code reading device 48 while in the patient's room. This activates the transmission of data via the telephone wiring to the computer system 42. While checking a drug against the patient's computer stored data files to verify it properly corresponds to the patient, the bar code reading device 48 will preferably light the amber status light 122b to indicate 'in progress' or the words 'IN PROGRESS' will be displayed on the liquid crystal display 116 of the bar code reading device 48" (col. 15, lines 9-24).
>
> "If the drug bar code scanned matches the patient identification bar code and the pharmacy-entered drug code, the green status light 122c or other appropriate readout on the LCD 116 will prompt the nurse to proceed" (col. 15, lines 58-62).
>
> "Preferably, administration of the drug will be automatically recorded when the green status light 122c or other appropriate indication appears on the LCD display 116, or unless the nurse pushes a button on the bar code reading device 48 to indicate that treatment did not occur" (col. 16, lines 3-8).

Thus, Gombrich teaches that (1) the patient identifier on the patient's ID bracelet is read; (2) the item ID on the drug to be administered is read; (3) a SEND key must be pressed by the

nurse; (4) the drug ID read must match both the patient ID read and the pharmacy drug code in order to activate the green status light; and (5) administration of the drug is automatically recorded responsive to activation of the green status light.

As can be seen, data indicative that the medical item *has been given* (administered) to the patient is not stored in Gombrich at the step of reading an ID, but much later (at the time of the green light). Even the Decision (at page 14, last two lines) acknowledges that "administration of the drug is automatically recorded" responsive to the green light. It follows that Gombrich cannot teach the "*responsive to*" feature of claim 23 (which was rejected under 35 USC § 102).

Again the burden was on the Examiner to provide a *prima facie* case of anticipation. Appellants were given no opportunity to specifically rebut the Examiner's reason for rejection of claim 23 because none was ever presented. The record shows (as noted above) that the rejection of claim 23 never even addressed the recited "responsive to" feature. By relying solely on the Examiner's conclusion, neither did the Board address the recited feature. Appellants respectfully submit that because anticipation was never established, the Decision is erroneously based.

(vii) Fact: Claim 26 at step (g) recites:

> "storing data in a bedside terminal positioned in generally *fixed* relation adjacent a bedside area of the one patient, indicative that the at least one medical item has been used in the medical treatment of the one patient".

Fact: The Decision (at page 9, beginning at the last paragraph) states:

> "While we agree that the terminal at the nurse's station and the terminal in the pharmacist area are not bedside terminals, we do find that Gombrich teaches

bedside terminals. As noted *supra* with respect to claim 4, we find that Gombrich teaches *portable* terminals . . . located in every patient['s] room".

As the record shows, the Board relies on Gombrich for teaching a "portable" terminal in sustaining the rejection of claim 26. However, claim 26 is directed to storing data in a "fixed" bedside terminal, not a "portable" terminal.

The Board cannot use a terminal as a "portable" terminal on one hand for sustaining the claim 4 rejection, and on the other hand use the same terminal as a "fixed" terminal for sustaining the claim 26 rejection. The Board's rulings with regard to claim 26 and claim 4 conflict with each other.

Appellants respectfully submit that the Board never established (in accordance with the standard of review for a 35 USC § 102 rejection) that Gombrich teaches the *fixed* bedside terminal of claim 26 (or, alternatively, the portable terminal of claim 4). Appellants respectfully submit that because anticipation was never established, the Decision is erroneously based.

(viii) For reasons previously discussed, there is no legal basis in the Decision for the ruling of anticipation regarding independent claims 4 and 26 (from which claims 6-13 and 27 depend). Likewise, there no legal basis in the Decision for the ruling of anticipation regarding claim 23 (from which claim 24 depends). A *prima facie* case of anticipation was never legally established. For reasons already discussed, the Board has overlooked the fact that the evidence of record never explicitly nor inherently established that Gombrich anticipates these claims. Appellants respectfully submit that because there is no teaching of anticipation on record, the Decision is erroneously based.

(ix) For reasons previously discussed, there is no legal basis in the Decision for the ruling of obviousness regarding independent claims 1, 19, and 20 (or for claims 2-3, 5, and 14-15 which depend therefrom). A *prima facie* case of obviousness was never legally established. For reasons already discussed, the Board has overlooked the fact that the evidence of record never established that all of the recited features are known in the relied upon prior art. The Board has overlooked the fact that there is no specific teaching, suggestion, or motivation in the relied upon prior art to produce the recited invention. Appellants respectfully submit that because no *prima facie* case of obviousness was ever established on record, the Decision is erroneously based.

CONCLUSION

Appellants have shown herein that there are several points that have been misapprehended or overlooked by the Board in its Decision. Reconsideration of the Decision and withdrawal of the sustained rejections is respectfully requested.

Specifically, Appellants respectfully submit that the record should be modified to reflect that the rejections of claims 1-15, 19-20, 23-24, and 26-27 are not sustained. The rejection of claim 21 was already reversed. As a result, claims 1-15, 19-21, 23-24, and 26-27 would be deemed allowable and claims 16-18, 22, 25, and 28 would remain rejected.

Respectfully submitted,

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